

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,

v.

ROBERT KING,

Defendant.

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I.D. No. 1208013187

Kent County

ORDER

Before the Court is Defendant Robert King's amended motion for postconviction relief under Delaware Superior Court Criminal Rule 61. King argues that differences in the drug weight recorded on the police report and the weight of the drugs when tested indicate that the drugs in this matter had been compromised. The cocaine and marijuana seized from King was sent to the OCME for testing; however, there has been no claim or evidence to suggest that King's guilty plea was conditioned on the OCME report. King does not claim that the seized drugs were not what they were claimed to be.

King participated in a colloquy before this Court during which he was questioned about the factual basis for his plea. He freely acknowledged his guilt. The record reflects that there was a factual basis for the plea and that King understood the plea and its consequences, including potential sentences. When accepting his plea, King knowingly, intelligently, and voluntarily waived his rights, including any complaints about the chain of custody of the drug evidence.

The Supreme Court of Delaware has addressed cases involving misconduct at the OCME. In *Brown v. State* the Court held the Constitution "does not require complete knowledge of the relevant circumstances, but permits a court to accept a guilty plea, with its accompanying waiver of various constitutional rights, despite

various forms of misapprehension under which a defendant might labor.”¹ Therefore, the State is under no obligation to disclose impeachment evidence prior to entering a plea agreement. The Court went on to say “*Ruiz* prevents [the defendant] from reopening his case to make claims that do not address his guilt, and involve impeachment evidence that would only be relevant at trial.”² Thus, under the Court’s holding in *Brown*, where a defendant admits to his guilt in a plea colloquy, “the OCME investigation provides no logical or just basis to upset his conviction.”³

Again and again, King identifies potential impeachment evidence he might have used at a trial, occasionally blurring the distinction between impeachment and exculpatory evidence. But none of the evidence King has identified is exculpatory, and *Brown* controls here.

King argues that his case should be distinguished from *Brown* because his plea was offered on the day of trial. But a careful reading of *Brown* indicates that the defendant’s plea hearing in that case also took place on the day for which his trial was scheduled.⁴ The timing of the plea thus cannot offer any ground for distinguishing his case from the one already decided by the our Supreme Court. The Court declines King’s invitation to adopt an interpretation of *Ruiz* that is at odds with the binding precedent established in *Brown*.

¹ *Id.* at 1205-06.

² *Id.* at 1206.

³ *Id.* at 1202.

⁴ *Id.* at 1203.

King also makes a due process argument. Although he does not ask the Court to vacate his guilty plea, he argues that his plea was involuntary under *Brady v. United States*⁵ because he was unaware of the OCME problem when the plea was entered. As the Supreme Court of Delaware noted in *Aricidiacono v. State*, a guilty plea is considered involuntary under *Brady* “if it is ‘induced by threats (or promises to discontinue improper harassment), misrepresentation (including unfulfilled or unfulfillable promises), or perhaps by promises that are by their nature improper as having no proper relationship to the prosecutor’s business (e.g. bribes).’”⁶ As in *Aricidiacono*, King has “submitted no evidence to suggest a natural inference that any misconduct at the OCME (or lack or knowledge of that conduct) coerced or otherwise induced him to falsely plead guilty.”⁷

King makes no claim of actual innocence. The mere existence of the ongoing scandal at the OCME does not *ipso facto* create a colorable claim that there was a miscarriage of justice nor does it create a strong inference that King is actually innocent. King has the burden to show clear and convincing evidence to contradict the admission made to the Court.⁸ He failed to do so. Accordingly, King’s Rule 61 motion is **DISMISSED**.

⁵ *Brady v. United States*, 397 U.S. 742 (1970).

⁶ *Aricidiacono v. State*, 125 A.3d 677, 679 (Del. 2015) (quoting *Brady*, 397 U.S. at 755).

⁷ *Id.*

⁸ *Sommerville v. State*, 703 A.2d 629, 632 (Del. 1997).

State v. Robert King
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November 16, 2016

IT IS SO ORDERED this 16th day of November, 2016.

A handwritten signature in dark ink, appearing to read 'William L. Witham, Jr.', written over a horizontal line.

William L. Witham, Jr.
Resident Judge

WLW/dmh

oc: Prothonotary

xc: Nicole S. Hartman, Esquire

Christopher S. Koyste, Esquire